BOOK REVIEWS

Criminal Remedies in Massachusetts for Failure to Furnish Support. Report of Committee on Law and Procedure of the Association of Justices of District, Police, and Municipal Courts of Massachusetts. 1916. pp. 52.

The above entitled monograph is designed to interpret the provisions, and to explain the purposes and practical working, of three recent closely affiliated statutes—the Uniform Desertion Act (1911, 1912, 1914), the Illegitimate Children Act (1913) and the Destitute Parents Act (1915). Adopted for the purpose of providing more flexible and effective criminal remedies for the non-performance of the economic obligations incident to the marital and parental relations, these acts are chiefly noteworthy for the effort to procure a specific performance of these obligations under judicial supervision, in lieu of their indirect vindication by punishment, or the threat of punishment.

To this end extensive application is given to the system of probation, previously incorporated into the criminal law of the state. This is in effect a provisional suspension of the criminal penalties, conditioned upon the observance of orders issued by the court for periodical payments to the probation officer for the benefit of the party lawfully entitled to the support. Such orders may either precede or follow conviction, may precede sentence or be accompanied by the suspended sentence, and are subject to unlimited modification and renewal by the court. This necessarily involves a sweeping extension, to a subject-matter of exceeding delicacy, of the discretionary and inquisitorial functions, the enormous expansion of which has so characterized modern procedural tendencies. The report assumes without discussion the advisability of this extension. This assumption, however, is qualified by two practical suggestions which cannot be overemphasized. The first is that the accompanying sentence be strictly adjusted to a punishment of the offense, and not aggravated for the purpose of intimidating compliance with the probationary orders. The second is that the sentence be unswervingly executed in case of delinquency in the observance of the orders. Without the former the system might develop into a tyrannical species of equitable specific enforcement under the guise of a

criminal proceeding. Without the latter, it might easily descend to a mere evasion of the criminal law.

Owing to the recency of the legislation, the difficulties of interpretation which are raised in the report are necessarily more numerous than those which are settled. Several minor procedural inadequacies of the statutes are exposed, and many valuable suggestions for their beneficent administration are given. Though invaluable for the administrator, for whom it is primarily intended, the work should also command the interest of the practitioner, the law student, and the legislator.

C. R. WARD.

Handbook of the Law of Wills. By George E. Gardner, Professor of Law in the Boston University School of Law. Second Edition, by Walter T. Dunmore, Professor of Law in Western Reserve Law School. Published by the West Publishing Co., St. Paul, Minn. 1916. pp. xiii, 641.

Unquestionably there is a field for "elementary treatises" which shall be "serviceable as practitioners' handbooks" when the practitioner seeks "to be reminded of the law," in which case "he wants it presented in such a way that he can pick out what he needs with the least trouble."

Such treatises to be successful need not discuss a subject exhaustively in all of its scientific aspects. To do so might, indeed, seriously detract from its usefulness, judged by the standard suggested, for it would require either great condensation or great length. Hence, it is no severe criticism to say that Gardner on *Wills* does not attempt to discuss or attempt to settle many of the points on which the learning of the experts is being expended.

In its own field it is most useful. A lawyer who wishes to find the law on any subject connected with wills will find here a summary of the recognized doctrines and, if he desires something more exhaustive, the starting point of his search. He will not in every case he justified in ending here. Thus, to cite two instances, it is stated on page 37 that the doctrine of incorporation has been questioned in Connecticut. It has been repudiated in *Hathaway v. Smith* (1907) 70 Conn. 506. On page 115 it is said: "The position is sometimes taken that the presumption of sanity establishes *prima facie* testator's capacity, and is to be given